

DEPARTMENT OF STATE REVENUE

**SECOND LETTER OF FINDINGS NUMBER: 99-0343P
Sales and Use Tax
For Calendar Year 12/31/97**

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer protests the penalty assessed on an audit completed on April 6, 1999.

Taxpayer failed to self-assess and remit use tax on clearly taxable items, primarily samples given away, office supplies, computer equipment, and other miscellaneous items. Taxpayer is an Indiana corporation engaged in selling hardware, etc at retail to the RV and mobile home industry.

At hearing, taxpayer states the company had a high degree of activity due to acquisitions and may have paid tax on invoices it cannot find. In addition, taxpayer states there are only two issues in the audit. A review of the file, however, indicates that taxpayer could not produce exemption certificates for sales made and paid a minimal amount of use tax.

ISSUE

I. Tax Administration – Penalty

DISCUSSION

Taxpayer requests a waiver of penalty and states there was a high degree of activity with regard to parent's acquisition of other companies. Taxpayer further states it may have paid tax but cannot find the invoices and there are only two issues in the audit. The new CPA's hired after audit state they are now handling all policy and procedures which have been corrected.

Taxpayer's audit revealed that approximately thirty percent (30%) use tax was self assessed and remitted for 1995. Taxpayer failed to charge tax on sales that had no exemption certificates on file. The fact that new CPA's were hired to handle current problems has no bearing on the years at audit.

The Indiana tax laws are clear in the Indiana Code and Regulations. The taxpayer was negligent in failing to charge and remit sales tax and self-assess and remit use tax due.

FINDING

Taxpayer's protest is denied.